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Joint Committee on Taxation
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PRESENT LAW AND BACKGROUND RELATING TO H.R. 1659 (AIRPORT SECURITY ACT OF 1989)[1]

I. Present Law and Background

Airport and Airway Trust Fund taxes

The following aviation excise taxes are imposed under present law: 8-percent tax on air passenger tickets; 5-percent tax on domestic air freight; $3 per person tax on international passenger departures; and fuels taxes on noncommercial (general) aviation (12 cents per gallon on gasoline and 14 cents per gallon on nongasoline fuels, i.e., jet fuel). The Airport and Airway Revenue Act of 1987 (title IV of the Airport and Airway Safety and Capacity Expansion Act of 1987) generally extended these taxes through December 31, 1990.

Revenues from the aviation excise taxes are transferred to the Airport and Airway Trust Fund to finance Federal airport and airway programs.

The 1987 Act provides for an automatic 50-percent reduction in the aviation excise taxes (other than the $3 international departure tax) in calendar year 1990, if the total Trust Fund appropriations for fiscal years 1988 and 1989 for airport improvements, facilities and equipment, and research, engineering and development are less than 85 percent of the total Trust Fund amounts authorized for these programs for fiscal years 1988 and 1989.[2]

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[1] H.R. 1659 was ordered reported on May 4, 1989, by the House Committee on Public Works and Transportation. On May 12, the Committee on Public Works and Transportation transmitted statutory language for the bill as amended and ordered reported, and requested that the Committee on Ways and Means provide an amendment to the Trust Fund statute (Code sec. 9502(d)) to reflect the Trust Fund authorizations under the bill. H.R. 1659 will be sequentially referred to the Committee on Foreign Affairs, for consideration of title II of the bill (see II., below).

[2] The total Trust Fund appropriations for these programs for fiscal years 1988 and 1989 was 79 percent; and therefore (absent a supplemental appropriation to increase the percentage to 85 percent or more), the CBO baseline budget assumes that the tax reduction trigger will be effective on January 1, 1990.

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Airport Trust Fund expenditure purposes

The present Airport and Airway Trust Fund statute (Code sec. 9502(d)(1)) authorizes expenditures from the Trust Fund, as provided by appropriations Acts, to meet obligations incurred:

(1) under Title I of the Airport and Airway Development Act of 1970, or of the Airport and Airway Development Act Amendments of 1976, or of the Aviation and Noise Abatement Act of 1979, or under the Fiscal Year 1981 Airport Development Authorization Act, or the Airport and Airway Improvement Act of 1982, or the Airport and Airway Safety and Capacity Expansion Act of 1987 (as such Acts were in effect on the date of enactment of the 1987 Act);

(2) under the Federal Aviation Act of 1958, as amended, which are attributable to planning, research and development, construction, or operation and maintenance of (a) air traffic control, (b) air navigation, (c) communications, or (d) supporting services; or

(3) administrative expenses of the Department of Transportation attributable to activities under (1) or (2) above.

The Airport and Airway Trust Fund expenditure programs authorized under present law generally include: (1) the airport improvement program (AIP), which covers airport planning, construction and certain terminal facilities, airport safety and security related equipment, land acquisition, and airport noise compatibility programs; (2) airway facilities and equipment (F&E); (3) FAA research, engineering and development activities (R&D); (4) FAA operations and maintenance programs (O&M); and (5) certain other costs (such as FAA weather reporting costs).

II. Summary of H.R. 1659 as Reported by the House Committee on Public Works and Transportation

Title I of the bill

H.R. 1659 as reported (title I) establishes two specific authorizations for funding air carrier and airport security programs from the Airport and Airway Trust Fund:

(1) $100 million for grants to air carriers (up to 100 percent of acquisition cost) to install and use explosive detection equipment at U.S. and foreign airports, using technology equivalent to or better than thermal neutron analysis (TNA), required under the Federal Aviation Act as amended by the bill (not more than $50 million may be obligated in FY 1989); and

(2) $170 million for grants to airport sponsors to pay (up to 100 percent of cost) for acquiring and installing airport security equipment used to comply with recent FAA rules[3] to upgrade security systems used to control access to secured areas of airports [4](not more than $85 million may be obligated in FY 1989).

With respect to both items (1) and (2), no grant monies are to be paid before October 1, 1989 (i.e., FY 1990), even though funds may be obligated during FY 1989. Under the bill, funds granted under (1) and (2) are to be considered as contract authority, and are not to be subject to any obligation limitation.

In addition, the bill rescinds $270 million of unobligated contract authority now available for airport development and planning (to pay for the $270 million in specific Trust Fund authorizations under the bill).

Title II of the bill

Title II of the bill as reported provides that the Secretary of State is to take all appropriate steps to ensure that equipment necessary for implementing airport and air carrier security measures at foreign airports is considered to be aviation equipment for customs purposes and exempt from foreign country customs duties and taxes.

(The bill will be sequentially referred to the Committee on Foreign Affairs, for consideration of title II.)

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[3] On January 6, 1989, FAA issued a final rule requiring airports to install, on a phased schedule, access control systems equivalent to or better than computer controlled systems.

[4] Under present Trust Fund program authorizations, airport security equipment required by FAA is included as an eligible purpose under airport development grants (airport improvement program); such grants currently are 75 percent (primary airports) or 90 percent Federal share (sec. 510 of the Airport and Airways Improvement Act of 1982). H.R. 1659 would provide up to 100 percent Federal share for such grants to airports.

III. Issues Under H.R. 1659

1. If the Committee agrees with the bill as reported by the Committee on Public Works and Transportation, an amendment is needed to Code section 9502(d) in order to update the Trust Fund Code cross reference to the authorization expenditure purposes as amended by the bill.

2. The bill would authorize grants from the Trust Fund (up to 100 percent of acquisition cost) to air carriers to install (at airports in the U.S. and outside the U.S.) explosive detection equipment required under the Federal Aviation Act as amended by the bill.

IV. Status of Airport and Airway Trust Fund

The uncommitted balance in the Airport and Airway Trust Fund was $5.8 billion at the end of FY 1988, and is projected (by the Congressional Budget Office) to be $6.8 billion at the end of FY 1989 and FY 1990.[5]

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[5] Congressional Budget Office, The Status of the Airport and Airway Trust Fund, December 1988, p. 36. This projection assumes that the tax reduction trigger goes into effect on January 1, 1990.